

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-2275

Ray Henry Faison,

Appellant,

v.

W. I. LeBlanc, Jr., Warden;
David Good, A. W. Medical;
Trung M. Tran, M.D.; United
States of America,

Appellees.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: September 21, 2007
Filed: October 10, 2007

Before MURPHY, SMITH, and SHEPHERD, Circuit Judges.

PER CURIAM.

Former federal inmate Ray Henry Faison filed a complaint under the Federal Tort Claims Act (FTCA) and Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), claiming inadequate medical care. The district court¹ dismissed the FTCA claim without prejudice, because Faison did not exhaust

¹The Honorable James M. Rosenbaum, Chief Judge, United States District Court for the District of Minnesota, adopting the report and recommendations of the Honorable Susan Richard Nelson, United States Magistrate Judge for the District of

his administrative remedies prior to filing his complaint, and dismissed the Bivens claims with prejudice, because Faison failed to state an Eighth Amendment claim. After de novo review, see LeMay v. U.S. Postal Serv., 450 F.3d 797, 799 (8th Cir. 2006) (lack of subject matter jurisdiction); Springdale Educ. Ass'n v. Springdale Sch. Dist., 133 F.3d 649, 651 (8th Cir. 1998) (failure to state claim), we affirm for the reasons set forth by the district court. See 8th Cir. R. 47B. We deny Faison's request for appointed counsel.

Minnesota.